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6   UNITED STATES DISTRICT COURT

7   DISTRICT OF NEVADA

8   * * *
)
9   STATE OF NEVADA   )
)
10   Plaintiff,   )   3:07-cv-0266-LRH-RAM
)
11   v.   )
)   ORDER
12   RUSSELL COHEN; et al.   )
)
13   Defendants.   )
)

14

15   Before the court is defendants Travers Greene and Paul Browning's motion for relief from

16   judgment and to dismiss for lack of jurisdiction. Doc. #161.

17   In their motion, defendants argue that this court was without subject matter jurisdiction to

18   issue the underlying order granting plaintiff's motion for summary judgment (Doc. #101) because

19   there is no federal question jurisdiction. *See* Doc. #161. The court disagrees.

20   A district court has original jurisdiction over an action if it arises under federal law. *See* 28

21   U.S.C. § 1331. A case arises under federal law if (1) the complaint establishes either that federal

22   law created the cause of action, or (2) the plaintiff's right to relief "requires resolution of a

23   substantial question of federal law." *Franchise Tax Bd. of Cal v. Constr. Laborers Vacation Trust*

24   *for S. Cal.*, 463 U.S. 1, 13 (1983); *see also, Caterpillar Inc. v. Williams*, 482 U.S. 386, 382 (1987);

25   *K2 Am. Corp. v. Roland Oil & Gas, LLC*, 653 F.3d 1024, 1029 (9th Cir. 2011).

26   Here, plaintiff's complaint requested the court issue a declaratory judgment that certain

1 actions, namely taking away typewriters from state prisoners, was constitutional. *See* Doc. #1. An

2 interpretation of whether an act is constitutional necessarily "requires resolution of a substantial

3 question of federal law." *Franchise Tax Bd.*, 463 U.S. at 13. Thus, plaintiff's complaint arises

4 under federal law and the exercise of federal question jurisdiction in this matter is appropriate.

5 Accordingly, the court shall deny defendants' motion for relief from judgment and to dismiss for

6 lack of subject matter jurisdiction.

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8   IT IS THEREFORE ORDERED that defendants' motion for relief from judgment

9 (Doc. #161) is DENIED.

10   IT IS SO ORDERED.

11   DATED this 22nd day of June, 2012.

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14   LARRY R. HICKS
          UNITED STATES DISTRICT JUDGE

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